

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

IMPLICIT, LLC

v.

HUAWEI TECHNOLOGIES USA, INC.,  
ET AL

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Case No. 6:17-cv-182- JRG

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**MINUTES FOR PRETRIAL CONFERENCE  
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP  
SEPTEMBER 27, 2018**

**OPEN: 9:19 a.m.**

**ADJOURN: 5:12 p.m.**

ATTORNEYS FOR PLAINTIFF:	(See attached)
ATTORNEYS FOR DEFENDANT:	(See attached)
LAW CLERKS:	Catherine Owens Hao J. Wu
COURT REPORTER:	Shelly Holmes, CSR-TCRR
COURTROOM DEPUTY:	Jan Lockhart

Time	Minutes
9:19 a.m.	Counsel announced ready for hearing.
9:21 a.m.	Parameters for trial given. Patent video to be shown. 30 minutes a side for voir dire; of that time a 3-minute high level nonargumentative, overview of case may be given; 8-person jury to be selected; four strikes per side; 11 hours per side for Direct and Cross; excludes time for Jury Selection, Opening (30 minutes a side) and Closing (30 minutes a side); motions under Rule 50(a) will be handled after ALL evidence is closed; demonstrative disputes handled by Court in chambers each morning by 7:30 a.m.; disputes are to be given to law clerks via email by 10:00 p.m.; informal charge conference to be held in chambers after both sides close; 3:00 p.m. on October 19, 2018 amended Jury Instructions due; deposition disputes need to be given to Court two days before the day you intend to use them; handled on a rolling basis; throughout trial refrain from using first name only; confidential or proprietary information to be used during trial – sealing must occur BEFORE going into information; the Court prefers that parties group any confidential information so as to eliminate multiple disruptions; Juror questionnaires to be used and should be coordinated with; Additional Pretrial to be handled on October 3, 2018 at 9:00 a.m. All exhibits are to be preadmitted prior to trial; if exhibits not used during the trial they are not evidence; 10 copies of jury notebooks delivered to chambers in Marshall by 12:00 p.m. on October 19, 2018; jury notebooks should include copies of the patents-in-suit, a claim construction chart, tabbed witness pages with a head and shoulders photo of the witness, a non-clicking pen, a 3-hole punched legal pad; expert witnesses are to stay within scope of written reports.
9:43 a.m.	Motions in Limine argued.
	Joint Motion in Limine No. 15 was DENIED.
9:45 a.m.	Mr. Hurt and Mr. Gibson read the parties' agreements as to Plaintiff's and Defendant's Motions in Limine.
9:53 a.m.	Plaintiff's Motions in Limine Nos. 1 and 2 argued by Mr. Chin for Plaintiff and Mr. Gaudet for Defendant. The Court GRANTED the motions for the reasons set forth at the hearing. Rulings are limited to Michael Ritter, only. Parties are to follow the rules.
	Plaintiff's Motion in Limine No. 3. Mr. Budaj spoke on behalf of Plaintiff. The Court CARRIED ruling on the motion.
10:09 a.m.	Plaintiff's Motion in Limine No. 4. Mr. Budaj argued on behalf of Plaintiff. Mr. Dotson argued on behalf of Defendant. The Court DENIED the Motion in Limine.
10:15 a.m.	Plaintiff's Motion in Limine No. 5. Mr. Budaj argued on behalf of Plaintiff. Mr. Gaudet argued on behalf of Defendant. The Court GRANTED the motion for the reasons set forth at the hearing.
	Plaintiff's Motion in Limine No. 6-9 agreed.
10:23 a.m.	Plaintiff's Motion in Limine No. 10. Mr. Budaj argued on behalf of Plaintiff. Mr. Gibson argued on behalf of Defendant. The Court GRANTED the motion.

Time	Minutes
10:30 a.m.	Plaintiff's Motion in Limine No. 11. Mr. Davis argued on behalf of Plaintiff. Mr. Gibson argued on behalf of Defendant. The Court GRANTED as to liability and DENIED the motion as to damages.
10:38 a.m.	Plaintiff's Motion in Limine No. 12. Mr. Hurt argued on behalf of Plaintiff. Mr. Gaudet argued on behalf of Defendant. The Court DENIED the Motion in Limine.
10:44 a.m.	Plaintiff's Motion in Limine No. 13. Mr. Davis argued on behalf of Plaintiff. Mr. Gaudet argued on behalf of Defendant. The Court GRANTED the Motion in Limine.
10:49 a.m.	Plaintiff's Motion in Limine No. 14. Mr. Davis argued on behalf of Plaintiff. Mr. Gaudet argued on behalf of Defendant. The Court CARRIED the Motion in Limine.
10:49 a.m.	Plaintiff's Motion in Limine No. 15. Mr. Davis argued on behalf of Plaintiff. Mr. Gaudet argued on behalf of Defendant. The Court GRANTED the Motion in Limine.
10:52 a.m.	Plaintiff's Motion in Limine No. 16. Mr. Davis argued on behalf of Plaintiff. Mr. Gaudet argued on behalf of Defendant. The Court GRANTED-IN-PART and DENIED-IN-PART the Motion in Limine.
11:01 a.m.	Plaintiff's Motion in Limine No. 17. The Court CARRIED the motion and will address the Motion in Limine when the Motion to Strike is considered.
11:01 a.m.	Plaintiff's Motion in Limine No. 18. Mr. Davis argued on behalf of Plaintiff. Mr. Gaudet argued on behalf of Defendant.
11:14 a.m.	Recess.
11:40 a.m.	The Court GRANTED Motion in Limine No. 18. Parties are to continue to discuss issues regarding willfulness.
11:43 a.m.	Plaintiff's Motion in Limine No. 19. The Court GRANTED the Motion.
11:44 a.m.	Defendant's Motion in Limine No. 1. Mr. Gibson argued on behalf of Defendant. Mr. Davis argued on behalf of Plaintiff. The Court GRANTED the Motion.
11:49 a.m.	Defendant's Motion in Limine No. 2. Mr. Johnson argued on behalf of Defendant. Mr. Hurt argued on behalf of Plaintiff. The Court CARRIED the Motion.
11:50 a.m.	Defendant's Motion in Limine No. 3. Mr. Gibson argued on behalf of Defendant. The Court CARRIED the Motion.
11:52 a.m.	Defendant's Motion in Limine No. 4. Mr. Gibson argued on behalf of Defendant. Mr. Hurt argued on behalf of Plaintiff. The Court DENIED the Motion in Limine as Moot.
11:57 a.m.	Defendant's Motion in Limine No. 5. Mr. Gibson argued on behalf of Defendant. Mr. Hurt argued on behalf of Plaintiff. The Court CARRIED the Motion in Limine.
	Defendant's Motion in Limine No. 6. Agreed by the parties.
12:01 p.m.	Defendant's Motion in Limine No. 7. Mr. Gibson argued on behalf of Defendant. Mr. Chin argued on behalf of Plaintiff. The Court the GRANTED the Motion in Limine.

Time	Minutes
12:10 p.m.	Recess.
1:25 p.m.	Court reconvened. The Court heard argument on Implicit, LLCs SEALED Motion to Strike the Rebuttal Expert Report of Mr. Christopher Bakewell Regarding Damages (Dkt. No. 207.) Mr. Davis argued on behalf of Plaintiff. Mr. Gibson argued on behalf of Defendant. The Court DENIED the portion of the Motion re PAN's patents. The Court DENIED the portion of the motion re the F5 Juniper litigation. The Court DENIED the Rule 408 Offers of Compromise portion of the motion. The Court GRANTED the portion of the motion on the Intel covenant not to sue. The Court DENIED the portion of the motion re Untimely Produced Documents.
3:02 p.m.	Mr. Gaudet withdrew the Opposed SEALED PATENT MOTION for Partial Summary Judgment Based on Implicit's Failure to Mark filed by Palo Alto Networks, Inc. (Dkt. No. 176.)
	The parties requested that the Opposed MOTION to Strike Portions of Russ Report as Exceeding Scope of Defendant's Invalidity Contentions filed by Implicit, LLC. (Dkt. No. 180) be decided by the Court based on the briefing on file.
	The Court heard argument on the Opposed SEALED MOTION for Partial Summary Judgment of No Invalidity in View of Decasper 1 and Decasper filed by Implicit, LLC (Dkt. No. 181.) Mr. Budaj argued on behalf of Plaintiff. Mr. Dotson argued on behalf of Defendant. The Court GRANTED the motion.
3:42 p.m.	The Court heard argument on the SEALED PATENT MOTION to Strike Infringement Theories from Dr. Almeroth's Expert Report that Ignore this Court's July 2, 2018 Order and the Local Rules for Infringement Contentions by Palo Alto Networks, Inc. (Dkt. No. 202.) Mr. Gaudet argued on behalf of Defendant. Mr. Singer argued on behalf of Plaintiff.
4:40 p.m.	Recess.
4:56 p.m.	Court reconvened. Court's questions to Mr. Singer. The Court heard rebuttal argument by Mr. Gaudet on the SEALED PATENT MOTION to Strike Infringement Theories from Dr. Almeroth's Expert Report that Ignore this Court's July 2, 2018 Order and the Local Rules for Infringement Contentions by Palo Alto Networks, Inc. (Dkt. No. 202.) The Court took the matter under advisement
	The parties are to meet and confer re exhibits and remaining disputes
5:12 p.m.	Court adjourned until October 3, 2018 at 9:00 a.m.